

11TH ANNUAL

INSURANCE LAW INSTITUTE

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Specialization Expected for Civil Trial Law, Personal Injury Trial Law, Real Estate



December 6*, 7-8, 2006

Four Seasons Hotel • Austin, Texas

*Optional Wednesday Evening Session: Cornerstones of Insurance

SPONSORED BY

THE INSURANCE LAW SECTION OF THE STATE BAR OF TEXAS
AND THE UNIVERSITY OF TEXAS SCHOOL OF LAW

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*Optional Wednesday Evening Session: Cornerstones of Insurance

Earn up to 14.50 Hours of Credit Including 2.00 Hours of Ethics Credit

WEDNESDAY EVENING—DEC. 6, 2006*

*Included in conference registration.

Also available as stand-alone registration.

Presiding Officer:

Veronica Carmona Czuchna, Austin, TX

5:00 p.m. Registration Opens

6:00 p.m. 2.00 hrs

Cornerstones of Insurance

This session covers the basics for new insurance law litigators, and will cover liability, property, and extra contractual information.

Extra-contractual: Brian L. Blakeley
San Antonio, TX

Liability: Aaron L. Mitchell, Dallas, TX

Property: Veronica Carmona Czuchna
Austin, TX

8:00 p.m. Adjourn

THURSDAY MORNING—DEC. 7, 2006

Presiding Officer: Beth D. Bradley, Dallas, TX

8:00 a.m. Registration Opens

Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. .75 hr

The Gathering Storm: What has been Decided, What is to be Decided, and Where Will We be When it is All Over

The focus of this session will be on major decisions from the Texas Supreme Court, Fifth Circuit, and Texas Courts of Appeals that affect insurance practice. Major cases that are currently pending will also be addressed, with discussions of where the courts may be headed. Finally, and most importantly, the impact on insurance and tort practices will be addressed, along with long-term implications of the decisions.

R. Brent Cooper, Dallas, TX

9:45 a.m. .50 hr

Hurricane Losses: Concurrent Causation and Other Hot Topics

The recent hurricane claims and lawsuits are forcing courts and lawyers to re-examine traditional insurance coverage issues. Two of Texas' leading insurance trial lawyers will discuss recent decisions, suggested strategies, and likely outcomes of several important property coverage issues.

William J. Chriss, Corpus Christi, TX
Christopher W. Martin, Houston, TX

10:15 a.m. .75 hr

Hurricane: Business Interruption and Other Time Element Coverages

This session will concentrate on core business interruption and other time element coverages as they relate to hurricane-related losses. It will also focus on key issues that often arise, including disputes involving causation and valuation.

Thomas H. Cook, Jr., Dallas, TX
Vincent E. Morgan, Houston, TX
Campbell E. Wallace, New Orleans, LA

11:00 a.m. Break

11:15 a.m. .50 hr

Builders Risk and Construction Defects

With most of the attention on third party liability coverage, is builders risk insurance a source of recovery for construction defects?

Patrick J. Wielinski, Arlington, TX

11:45 a.m. .75 hr

Agents, Brokers, and Producers: Is the Law Changing, and If So, Why?

Insurance arrangements often involve three parties: the insured, the insurer, and the person in the middle—the broker, producer, and/or agent. The law regarding the insurance intermediary is vague and tangled, but has been slow to change. Recent events and trends have put this law under pressure. What new duties and exposures may result? What does all this mean for lawyers who are suing, defending, or providing advice?

Michael Sean Quinn, Austin, TX

LUNCHEON PRESENTATION

12:30 p.m. Pick Up Box Lunch
Included in conference registration fee.

12:45 p.m. .50 hr

Following Fless

It's over, now what? The panel will discuss the Supreme Court's opinion in *Fless v. State Farm Lloyds*—not only the impact on future mold litigation, but also the application to other ensuing loss situations, the implications of the court's treatment of prior policy forms, and agency interpretations in policy construction.

Moderator: Robert G. Hogue, Dallas, TX
William J. Chriss, Corpus Christi, TX
Christopher W. Martin, Houston, TX
Karen Perrigrew, Austin, TX

THURSDAY AFTERNOON

Presiding Officer:

Vincent E. Morgan, Houston, TX

1:30 p.m. .50 hr

Coverage for Construction Claims: Clarifying the Confusion over the Business Risk Exclusions

A review of the business risk exclusions in a commercial general liability policy, and their application to cases involving construction defects, as well as a discussion of recent cases addressing whether construction defect/faulty workmanship claims constitute an "occurrence" or "property damage" under the policy's insuring language.

J. James Cooper, Houston, TX
Rebecca S. C. DiMasi, Austin, TX

2:00 p.m. .50 hr

Recent Developments in Personal Auto and Homeowner Policies

This session will provide an update on recent court decisions impacting both personal auto and homeowner insurance policies.

Lisa A. Songy, Dallas, TX

2:30 p.m. .50 hr

The Once and Future Coverage: Coverage B

How has coverage for Personal and Advertising Injury changed under recent ISO forms; what's covered and what's not; and what are the new horizons for its application?

Beth D. Bradley, Dallas, TX

3:00 p.m. Break

3:15 p.m. .50 hr

Issues Arising from Alternative Employment Relationships

Employers increasingly rely on alternative employment arrangements for all or part of their workforce. Leased employees, borrowed servants, temporary employees, co-employees create unique coverage issues. Are these worker "employees" excluded from coverage for bodily injury under commercial general liability policies? Are the jury findings from the underlying tort suits binding on the employer or carrier? Can claiming employee status have far-reaching and unintended effects on employee benefit programs?

Linda M. Dedman, Dallas, TX

3:45 p.m. .50 hr

Expert Witnesses in Insurance Cases

The law of expert testimony applied to insurance litigation. Do you need an expert? What issues allow expert testimony? Supporting and attacking "expert" testimony.

Mark L. Kincaid, Austin, TX

4:15 p.m. 1.00 hr ethics

Slippery Slopes and Ethical Landmines

A panel discussion of the privilege-related pitfalls and ethical dilemmas in the context of developing areas of law—including the practical aspects of the role of independent counsel, the use of joint defense agreements and communications involving non-defending insurers.

Moderator: Ernest Martin, Jr., Dallas, TX
Elizabeth Ann Gilday, Dallas, TX
Meloney Cargil Perry, Dallas, TX
Lee H. Shidlofsky, Austin, TX

5:15 p.m. Adjourn

FRIDAY MORNING—DEC. 8, 2006

Presiding Officer:

Veronica Carmona Czuchna, Austin, TX

9:00 a.m. .50 hr

Making a Little Bit Go a Long Way—The Policy Limits in Multiple Claimant Cases

Addressing the numerous issues raised where the limits appear insufficient to satisfy multiple claimants, including an update on *Soriano*,

approaches to increasing the number of occurrences in automobile and commercial general liability policies, the "per occurrence" deductible dilemma, special reservation of rights consideration, and handling issues presented where the limits depend on facts to be litigated in the underlying case.

Michael W. Huddleston, Dallas, TX

9:30 a.m. .50 hr

Taking and Defending Adjuster's Depositions

How to prepare an adjuster to give a deposition; how to take an effective deposition of an adjuster.

Thomas C. Wright, Houston, TX

10:00 a.m. .50 hr

What Goes In, What Goes Out: Discovery & Evidentiary Issues in Coverage Litigation

An overview of discovery and evidentiary issues in coverage litigation, including the consideration of: extrinsic evidence in policy interpretation and whether the "surrounding circumstances" exception allows consideration of underwriting files and other collateral matter; extrinsic evidence and the pleadings in liability coverage disputes; obtaining and using the insurer's own evaluations, records, guidelines and directives; and the limits imposed by concerns over others' privacy interests.

J. Stephen Gibson, Dallas, TX

10:30 a.m. Break

10:45 a.m. 1.25 hrs

Setting the Chess Pieces: Preparation and Strategy Considerations in Filing and Prosecuting Coverage Litigation

A discussion of litigation considerations and issues involved in litigating coverage disputes, including venue, severance, declaratory judgments and strategies to maximize your position from both the carrier and policyholder perspectives.

Brian S. Martin, Houston, TX
Russell H. McMains, Corpus Christi, TX

FRIDAY AFTERNOON

Presiding Officer:

Russell H. McMains, Corpus Christi, TX

LUNCHEON PRESENTATION

12:00 p.m. Pick Up Box Lunch

Included in conference registration fee.

12:30 p.m. .50 hr ethics

The Rhetorical is Ethical: A Defense of Rhetoric and Lawyers

The rhetorical skills possessed by lawyers instill in citizens what the Greeks called *euboulia*, good judgment.

Dan Pozza, San Antonio, TX

1:15 p.m. .75 hr

Going Naked: Self-Insurance, Captives and Fronting Arrangements

Why are so many corporations and associations self-insured? What is a captive? Why and how are they established and run? What difference does it make to be offshore? How does reinsurance work in this context—does the reinsurer get to control defense? Owe a duty of good faith? What about insolvency? What is a fronting policy? What's the difference between a deductible and a SIR?

D. Christopher Heckman, Irving, TX
James W. Walker, Dallas, TX

2:00 p.m. .75 hr

Additional Insurance

Additional insureds and certificates of insurance: What do you get when you have someone else buy your coverage?

David J. Schubert, Dallas, TX
Stephen E. Walraven, San Antonio, TX

2:45 p.m. .50 hr ethics

Post-Verdict Solutions—Bonding on Net Worth, Intervention, and Other Extraordinary Measures

A trip through the post-verdict world after House Bill 4 and the changes made to the amount of and posting of supersedeas bonds, as well as recent appellate court opinions interpreting the legislative changes. Also, examine a number of disputed issues and aggressive tactics currently being used by claimants to thwart attempts to post bonds for half of the net worth of the insured.

Diana L. Faust, Dallas, TX

3:15 p.m. Adjourn

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Top Reasons to Attend

Wed. Evening Session: Cornerstones of Insurance

A great primer for new insurance law litigators, the Wednesday evening session will cover the basics of liability and property policies and an overview of extra-contractual liability. Included in conference registration; also available as stand-alone registration.

Definitive Updates

Get a comprehensive overview of major insurance decisions from the Texas Supreme Court, Fifth Circuit, and Texas Courts of Appeals—the impact on insurance and tort practices will be highlighted.

Hurricane-Related Issues

On Thursday morning, two leading trial lawyers discuss recent hurricane claims and the implications under homeowners policies; a panel discussion follows discussing the impact under commercial policies, including business interruption and other time element coverage issues.

Lunch Presentation:

Fiess vs. State Farm Lloyds

What's the aftermath of the *Fiess* decision? Thursday's lunch presentation focuses on its impact, the application to other ensuing loss situations, the implications of the court's treatment of prior policy forms, and more.

Practice Strategies for Coverage Litigation

Don't miss an overview of discovery and evidentiary issues, as well as preparation and strategy considerations in filing and prosecuting coverage litigation, including practical tips for deposing or defending adjusters, and strategy considerations relating to appraisal, arbitration, and mediation. Also included is a discussion of timing and choice of forum, privilege and relevance issues, and post-verdict considerations.

Developing Issues

Get up to speed with the latest and greatest developments in coverage law, including builder's risk, personal lines, employment practices, advertising injury, and coverage for construction defects.

Exposures Beyond Insurance

Review new areas of agent and broker liability, learn about the unique issue arising from self-insured exposures, and consider the practical and ethical issues facing defense counsel.

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REGISTRATION:

Includes Course Binder, Thursday and Friday Box Lunch Presentations

☐ Early Registration Fee due by Wednesday, Nov. 29, 2006 \$450.00

☐ Registration Fee after Wednesday, Nov. 29, 2006 \$500.00

Wednesday Evening Session Only:

☐ Early Registration Fee due by Wednesday, Nov. 29, 2006 \$75.00

☐ Registration Fee after Wednesday, Nov. 29, 2006 \$100.00

CONFERENCE PUBLICATIONS AND MEDIA

Allow 2-4 weeks from the conference date for delivery.

☐ Course Binder *Without* Conference Registration \$200.00

Note: Conference registration includes Course Binder.

☐ Audio CD Set \$175.00

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AUSTIN

December 6*, 7-8, 2006

CONFERENCE LOCATION



Four Seasons Hotel

98 San Jacinto
Austin, TX 78701
512-685-8100

SPECIAL RATE \$185

(subject to availability)
good through November 14, 2006
Parking: \$7 self-parking; \$12 valet
(subject to change)

KEY DATES

Registration & Cancellation

November 29, 2006—5 p.m.

last day for early registration
add \$50 for registrations
received after this time

December 1, 2006—5 p.m.

last day for full refund

December 4, 2006—5 p.m.

last day for partial refunds
\$50 processing fee applied

December 6, 2006—6 p.m.

Wednesday evening session begins

December 7, 2006—9 a.m.

conference begins

M
C
L
E

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UTCLE'S SPRING CONFERENCE SCHEDULE

Please visit www.utcle.org for additional program dates and venues.

Nonprofit Organizations Institute

January 11-12, 2007
Four Seasons Hotel, Austin

Bankruptcy Litigation: Advanced Pre-Trial Practice

February 1-2, 2007
The Center for American and International Law, Dallas

VALCON: Legal & Financial Perspectives on Valuations

February 8-9, 2007
Red Rock Casino, Resort and Spa, Las Vegas

Securities Regulation & Business Law

February 22-23, 2007
Belo Mansion, Dallas

Wind Energy Institute

February 26-27, 2007
Convention Center, Austin

School Law Conference

March 1-2, 2007
Hyatt Regency on Town Lake, Austin

Collaborative Law Institute

March 8-9, 2007
Hyatt Regency on Town Lake, Austin

Telecom, Cable & Wireless Conference

March 8-9, 2007
Hyatt Regency on Town Lake, Austin

Oil, Gas & Mineral Law Institute

March 30, 2007
Hilton Post Oak, Houston

Health Law Conference

April 12-13, 2007
Four Seasons Hotel, Houston

Land Use Planning Law Conference

April 12-13, 2007
Hyatt Regency on Town Lake, Austin

Corporate Counsel Institute

April 19-20, 2007
Westin Oaks, Houston
May 10-11, 2007
Cityplace Conference Center, Dallas

County & District Clerks' Legal Education Conference

May 1-3, 2007
Hyatt Regency on Town Lake, Austin

Criminal Appeals

May 9-11, 2007
Radisson Hotel & Suites, Austin

Multiple Parties, Multiple Problems: A Symposium

May 10-11, 2007
Permanent Court of Arbitration
The Hague, Netherlands

Labor & Employment Law Conference

May 17-18, 2007
Hyatt Regency on Town Lake, Austin

Technology & Computer Law Conference

May 24-25, 2007
Four Seasons Hotel, Austin

Conference on State & Federal Appeals

May 31-June 1, 2007
Four Seasons Hotel, Austin

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